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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,449	08/28/2001	Hideyuki Kano	21900/0034	4179

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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,449

Applicant(s)

KANO, HIDEYUKI

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2004 has been entered.

#### ***Response to Arguments***

2. Applicant's amendment to the specification and claims, and arguments filed on July 28, 2004 have been fully considered but they are not persuasive.

a. Applicants have amended the claims to indicate that the harmful substances are those generated by a patient's skin but the specification or the claims specify what are those harmful substances that are being removed. While the amendment to the specification does clarify the separate uses of the claimed textile material (i.e. for applications in building materials and for applications related to the prevention of bedsores), the amendment still fails to provide definition to the claimed "harmful substances" that are being removed by the product and method claimed herein. It is the Examiner's position that the substances that are to be removed by the product and method are not defined by the specification or claims by just describing that these substances are generated by a patient's skin. It is noted that the exudates of patients are affected by the medications, diet and health conditions of the person, therefore, the so called "harmful substances" is these are the exudates of the patients encompass and indefinite number of substances that are not being defined herein.

b. With regards to the 35 U.S.C. 103(a) rejection over JP'274 and ELES (US '409), Applicants argue that the combination of these references fails to disclose having the deodorant and harmful substance-neutralizing agent impregnated into the threads followed by a graft polymerization. Further, Applicants argue that according to the JP'274 reference, graft polymerization is performed first and then copper (Cu) is added to the graft polymerized portion of a fabric. On the other hand, according to the present invention, graft polymerization is performed after adding deodorant to threads by impregnation.

Applicants are directed to MPEP 2144.04, which indicates that the selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results.

Therefore, the rejections are maintained as stated in previous office action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement as stated in previous action and further discussed above. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants claim a deodorant that serves as an agent for removing harmful substances. The specification and claims still fails to provide definition to the claimed

“harmful substances” that are being removed by the product and method claimed herein. It is the Examiner’s position that the substances that are to be removed by the product and method are not defined by just describing that these substances are generated by a patient’s skin. It is noted that the exudates of patients are affected by the medications, diet and health conditions of the person, therefore, the so called “harmful substances” is these are the exudates of the patients encompass and indefinite number of substances that are not being defined herein.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04289274A (Abstract) in view of ELES (US 4,525,409) as stated in previous action.

Applicant claims a bed sore preventing product and a method of making it that comprises the impregnation of threads with a deodorant, treating the threads with graft polymerization and weaving a textile material from the threads. The JP reference discloses deodorant textiles that contain copper on graft polymerized part of the fiber surface. The graft polymerization layer of the fiber surface comprises copolymerised vinyl comonomer having carboxylic or sulphonic acid group. The fiber material may be synthetic fibers, regenerated fiber or natural fiber. The abstract of the reference indicates that their invention is useful for bedding articles, interior articles and cloth.

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While the JP reference teaches the use of their invention for bedding articles, it does not explicitly disclose that the bedding articles or cloths are woven.

ELESH discloses a process for making a fabric used to produce bedding especially well suited for hospitals and nursing homes, among others. (Abstract) The reference teaches weaving a cloth to produce the fabric for the bedding of their invention. (See claim 1)


Since both references are analogous art, both are directed to fabrics for bedding; the purpose disclose by ELESH would have been recognized in the pertinent art of the JP reference. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the bedding article to be a woven fabric with the motivation of providing a fabric which does not become offensive as by forming a breeding media for mildew, bacteria, or fungus as disclosed by ELESH. (Column 1, lines 43-45) Applicants are further directed to MPEP 2144.04, which indicates that the selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Norca L. Torres-Velazquez  
Examiner  
Art Unit 1771

October 13, 2004